

Title: Commissioner of Internal Revenue vs. Wander Philippines, Inc. and the Court of Tax Appeals

Facts:

Wander Philippines, Inc. (Wander), a domestic corporation and wholly-owned subsidiary of Glaro S.A. Ltd. (Glaro), a Swiss corporation, remitted dividends to its parent company and paid a 35% withholding tax as per the Bureau of Internal Revenue's (BIR) directive. Wander, believing the correct tax rate should be 15% due to bilateral agreements and amendments in the Philippine Tax Code, sought a refund of the overpaid taxes for the dividends remitted in 1975 and 1976, amounting to P115,440.00. After the Commissioner of Internal Revenue (CIR) failed to act on the claim, Wander appealed to the Court of Tax Appeals (CTA), which ruled in Wander's favor. The CIR contested this ruling at the Supreme Court (SC), arguing firstly that Wander, being merely a withholding agent, was not the proper party to claim the refund, and secondly, whether Switzerland provided a tax credit against the tax due from Glaro equivalent to 20% of the difference between the regular and preferential tax rates.

Issues:

1. Whether Wander Philippines, Inc. is the proper party entitled to claim the tax refund.
2. Whether Switzerland, being the domicile country of Glaro S.A. Ltd., allows a tax credit equivalent to 20% of the difference between the regular and preferential tax rates, thus entitling Wander to the preferential rate of 15% withholding tax.

Court's Decision:

The Supreme Court dismissed the petition filed by the CIR for lack of merit, affirming the CTA's decision. The Court addressed both issues raised by the petitioner. On the first issue, it held that raising the argument that Wander was not the proper party to claim the refund for the first time at the Supreme Court level was improper given it was not presented at the administrative level or the CTA. It further reasoned that Wander, being a wholly-owned subsidiary of Glaro and compelled to act as a withholding agent by law, was the appropriate entity to claim the refund/credit of overpaid withholding tax.

For the second issue, the Supreme Court found that since Switzerland did not impose any tax on the dividends received by Glaro from the Philippines, the condition for the preferential tax rate was met, endorsing the broader perspective that the intent of the tax provision was to encourage foreign investment in the Philippines.

Doctrine:

The Supreme Court reiterated the principle that claims for tax refund are construed strictly

against the claimant but upheld the preferential tax rate as fulfilling the intent of the law to encourage foreign investment in the Philippines. It also emphasized that issues not raised in lower courts or at the administrative level cannot be raised for the first time on appeal.

Class Notes:

1. Party Entitled to Claim a Refund: A corporation acting as a withholding agent for the government can claim a refund or credit of overpaid withholding tax if acting on behalf of its parent company.
2. Preferential Tax Rate Eligibility: The eligibility for a preferential tax rate under bilateral agreements or amendments to the Tax Code involves the condition that the domicile country of the foreign parent corporation provides for a tax credit or does not impose corresponding tax on the dividends received, encouraging foreign investment.
3. Raising Issues on Appeal: Parties are barred from raising arguments for the first time at the appellate level if these were not presented at the administrative level or in the lower courts.

Historical Background:

This case highlights the intricacies of international tax law as applied in the Philippines, showcasing the country's efforts to remain attractive to foreign investors through favorable tax treatments. The resolution of this case also demonstrates the Philippine judicial system's approach to interpreting tax laws and bilateral agreements in the context of global economic participation.